

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2009-026189

11/17/2009

HONORABLE BETHANY G. HICKS

CLERK OF THE COURT  
M. Sahli  
Deputy

360 ENTERPRISE INC

KERRY SCOTT MARTIN

v.

CLIFFSIDE MALIBU, et al.

ANDREW F HALABY

WILLIAM G KLAIN

MINUTE ENTRY

**IT IS ORDERED** setting a Comprehensive Pre-Trial Conference for **December 14, 2009 at 3:00 p.m.** with counsel to appear **in person** in this division.

Judge BETHANY G. HICKS  
Maricopa County Superior Court  
East Court Building  
101 W. Jefferson, Courtroom 811  
Phoenix, Arizona 85003  
(602) 506-2139

**IT IS FURTHER ORDERED** that the parties shall submit a Joint Pretrial Memorandum as set forth below.

The Court will review the Joint Pretrial Memorandum and proposed discovery and disclosure order, required below. If the dates are mutually agreeable to all parties, then the parties may incorporate the order by reference. The Court may set a trial date and a trial management conference date at that time. The Court may also adopt the discovery and disclosure schedule order and set a scheduling conference after the completion of disclosures or

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the Court may place the matter back on the Inactive Calendar for a period of time for counsel to complete the requirements under Rule 38.1<sup>1</sup>. If counsel feel a pretrial conference is still necessary at this stage of the litigation, they should address the reasons for the need for a pretrial conference in the first paragraph of the Joint Pretrial Memorandum.

If the parties fail to file a timely memorandum, sanctions may issue pursuant to Rule 16(f).

**IT IS FURTHER ORDERED:**

All counsel are directed to meet personally to discuss all of the matters set forth in Rule 16(b). Counsel shall prepare and file with the Court, 5 days prior to the Pre-Trial Conference, a **Joint Pretrial Memorandum**, and prepare a **proposed order for Discovery and Disclosure deadlines with dates certain**. The proposed order shall include **dates certain** for the following items.

1. **An agreed-upon schedule for completion of non-expert depositions.** As far as can reasonably be anticipated, each party shall set forth the depositions they anticipate taking and the approximate time required for each; any and all medical examinations which may be required of any of the parties; the person or persons to conduct such examinations; all requests for production; and all tangible evidence to be disclosed or exchanged.
2. **A date for the final disclosure of expert witnesses,** and/or to supplement disclosures made to date.
3. **A date or dates for the final disclosure of all non-expert witnesses,** and/or to supplement disclosures made to date.
4. A date by which all written discovery will be propounded and concluded. Further, counsel shall set forth any written discovery outstanding and a date when it will be complete.
5. The position of each counsel on whether the Rule 38.1 time limits should be waived.
6. A proposed date for a Mandatory Settlement Conference pursuant to Rule 16.1 A.R.C.P.

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<sup>1</sup> The Court will strictly enforce Rule 38.1(a)(3)(I) and Local Rule 3.4.  
Docket Code 026

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7. An agreed-upon date for compliance with Rule 16(d). The parties shall attach a copy of the Rule 16(g) form so the Court can issue the appropriate order for Alternate Dispute Resolution.
8. Set forth any discovery disputes to date or Rule 26.1 compliance issues.
9. A date for completion of all discovery, including expert discovery.
10. A date by which all dispositive or partially-dispositive motions shall be filed.
11. A proposed trial date agreed upon by all counsel and anticipated length of trial.

If the parties agree as to the dates, they need only prepare the proposed order and incorporate it by reference. If counsel are unable to agree on any of the items of the Pretrial Statement, the reasons for their inability to agree shall be set forth in the Pretrial Statement and each shall prepare a separate proposed order.

**IT IS FURTHER ORDERED** that should any discovery disputes arise, counsel shall MEET AND CONFER pursuant to Rule 37, then telephonically contact the Court to set up a telephonic conference before any motions are filed.

**IT IS FURTHER ORDERED** that counsel shall notify the Court of any agreed-upon extension of any time period provided by the Rules of Civil Procedure. The purpose of this order is not to discourage extensions as a matter of professionalism, but to ensure that no party suffers summary disposition of any issue by virtue of an extension of which the Court is not aware.

Any dispositive motions must be filed within 90 days of trial. Any motions in *limine* must be filed within 30 days of trial.

**IT IS ORDERED** setting Oral Argument re: Motion for Protective Order for **December 14, 2009 at 3:00 p.m. in conjunction with the above conference** in this division. Counsel's arguments are limited to five (5) minutes per side. If additional time is requested, counsel shall contact the Court.

Unless otherwise advised by the Court at oral argument, the parties should assume that the Court has reviewed the parties' memoranda. Accordingly, the parties should be prepared to focus on the key issues in dispute and to answer questions from the Court.

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**If the parties' Motions contain citations to out-of-state cases, that party shall provide the Court with copies of those cases.**

**NOTE: Counsel are directed to provide the Court with a hard copy of any document efiled that exceeds a 10-page limit.**

**NOTE: The parties are advised that failure to appear at a hearing may result in sanctions, including a Default Judgment.**

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>